



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 31, 1996

Ms. Detra Hill
Assistant City Attorney
City of Dallas
Legal Services Division
2014 Main Street, Room 501
Dallas, Texas 75201

OR96-0858

Dear Ms. Hill:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29341.

The City of Dallas (the "city"), through its police department, has received a request for "a full and complete copy of the arrest report or offense report detailing [the requestor's] arrest for driving while intoxicated . . . on May 5, 1993." You advise us that the city has made available to the requestor information that this office has previously determined to constitute public information pertaining to pending criminal investigations. See Open Records Decision No. 127 (1976) at 3-4 (summarizing *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976)). You object, however, to releasing the remainder of the requested information and claim that section 552.108 of the Government Code excepts it from required public disclosure.

When applying section 552.108, this office distinguishes between information relating to cases that are still under active investigation and other information. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. See *Houston Chronicle*, 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976). Otherwise, when the "law enforcement" exception is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how its release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 2 (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). Whether information falls within the section 552.108 exception must be determined on a case-by-case basis. *Id.*

We conclude that you may not withhold the requested information under section 552.108. Although you tell us that releasing the requested information will interfere with an ongoing investigation, you do not indicate that the requested records are of an ongoing investigation. Furthermore, the records suggest that the investigation is probably closed: the offense was committed and the offender arrested over three years ago. Therefore, you have not established that the investigation reflected in the requested records is active or that releasing the requested records will unduly interfere with law enforcement.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Loretta DeHay".

Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 29341

Enclosures: Submitted documents

cc: Ms. Kelsey Elizabeth Brady
3211 Belmead
Tyler, Texas 75701
(w/o enclosures)